

DECLARATION IN COPENDING APPLICATION
CONTAINING ADDITIONAL SUBJECT MATTER

ATTORNEY'S DOCKET NO.

I, the below named inventor, hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

that I verily believe that I am the original, first and sole inventor if only one name is listed at 201 below, or a joint inventor if plural

inventors are named below at 201-203, of the invention entitled: SPECTROSCOPIC ROTATING COMPENSATOR

ELLIPSO METER SYSTEM WITH PSEUDO-ACHROMATIC RETARDER SYSTEM

which is described and claimed in the attached specification;

that this application in part discloses and claims subject matter disclosed in my earlier filed pending application,

Serial No. 09/496,011, filed 02/01/00; (PLUS SEE NEXT PAGE)

that I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application; that as to the subject matter of this application which is common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof, or more than one year prior to said earlier application, or in public use or on sale in the United States of America more than one year prior to said earlier application;

that the common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of said earlier application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to said earlier application; and

as to applications for patents or inventor's certificate on the common subject matter filed in any country foreign to the United States of America, prior to said earlier application by me or my legal representatives or assigns,

☒ no such applications have been filed, or

☐ such applications have been filed as follows:

EARLIEST FOREIGN APPLICATION(S), IF ANY, FILED WITHIN 12 MONTHS PRIOR TO SAID EARLIER APPLICATION

| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) | PRIORITY CLAIMED UNDER 35 U.S.C. 119 |
|---------|--------------------|--------------------------------------|-------------------------------------|--|
| | | | | YES <input type="checkbox"/> NO <input type="checkbox"/> |
| | | | | YES <input type="checkbox"/> NO <input type="checkbox"/> |

ALL FOREIGN APPLICATIONS, IF ANY, FILED MORE THAN 12 MONTHS PRIOR TO SAID EARLIER APPLICATION

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that as to the subject matter of this application which is not common to said earlier application, I do not know and do not believe that the same was ever known or used in the United States of America before my or our invention thereof or patented or described in any printed publication in any country before my or our invention thereof, or more than one year prior to this application, or in public use or on sale in the United States of America more than one year prior to this application;

that said non-common subject matter has not been patented or made the subject of an inventor's certificate issued before the date of this application in any country foreign to the United States of America on an application filed by me or my legal representatives or assigns more than twelve months prior to this application; and

as to applications for patents or inventor's certificate on the invention filed in any country foreign to the United States of America prior to this application by me or my legal representatives or assigns,

☒ no such applications have been filed, or

☐ such applications have been filed as follows:

EARLIEST FOREIGN APPLICATION, IF ANY, FILED WITHIN 12 MONTHS PRIOR TO THIS APPLICATION

| COUNTRY | APPLICATION NUMBER | DATE OF FILING (day, month, year) | DATE OF ISSUE (day, month, year) | PRIORITY CLAIMED UNDER 35 USC 119 |
|---------|--------------------|--------------------------------------|-------------------------------------|--|
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |
| | | | | <input type="checkbox"/> YES <input type="checkbox"/> NO |

ALL FOREIGN APPLICATIONS, IF ANY, FILED MORE THAN 12 MONTHS PRIOR TO THIS APPLICATION

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This Application is a Continuation-In-Part of:

Co-pending Application Serial No. 09/945,962 filed 09/04/01; and
Co-pending Application Serial No. 09/496,011 filed 02/01/00;
which is a CIP from Application Serial No. 09/246,888 filed
02/08/99, (now Patent No. (6,084,675);
which is a CIP from Application Serial No. 08/912,211 filed Aug.
15, 1997, (now Patent No. 5,872,630);
which is a CIP from Application Serial No. 08/530,892 filed
09/20/95, (now Patent No. 5,666,201);
and is a CIP of Application Serial No. 08/618,820 filed
03/20/96, (now Patent No. 5,706,212);

This Application is, via the Co-Pending Application 09/496,011
and Application 09/246,888 further a Continuation-In-Part of
Applications Serial Nos. 09/225,118 (now Patent 6,084,674);
09/223,822 (now Patent 6,118,537); 09/232,257 (now Patent
6,141,102); 09/225,371 (now Patent 6,100,981); 09/225,076 (now
Patent 5,963,325); which Applications depend from Application
Serial No. 08/997,311 filed 12/23/97, now Patent 5,946,098.

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (list name and registration no.)

JAMES D. WELCH

REG. NO. 31,216

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(name and telephone number)

JAMES D. WELCH

402-391-4448

| | | | | |
|-----|-------------------------|---|--------------------------------------|--------------------------------------|
| 201 | FULL NAME OF INVENTOR | FAMILY NAME JOHS | FIRST GIVEN NAME BLAINE | SECOND GIVEN NAME D. |
| | RESIDENCE & CITIZENSHIP | CITY LINCOLN | STATE OR FOREIGN COUNTRY NEBRASKA | COUNTRY OF CITIZENSHIP U.S.A. |
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| 202 | FULL NAME OF INVENTOR | FAMILY NAME HERZINGER | FIRST GIVEN NAME CRAIG | SECOND GIVEN NAME M. |
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| 203 | FULL NAME OF INVENTOR | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| | RESIDENCE & CITIZENSHIP | CITY | STATE OR FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| | POST OFFICE ADDRESS | POST OFFICE ADDRESS | CITY | STATE & ZIP CODE/COUNTRY |
| 204 | FULL NAME OF INVENTOR | FAMILY NAME | FIRST GIVEN NAME | SECOND GIVEN NAME |
| | RESIDENCE & CITIZENSHIP | CITY | STATE OR FOREIGN COUNTRY | COUNTRY OF CITIZENSHIP |
| | POST OFFICE ADDRESS | POST OFFICE ADDRESS | CITY | STATE & ZIP CODE/COUNTRY |

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

I acknowledge the duty to disclose material information as defined in 37 C.F.R. 1.56(a) which occurred between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I have reviewed and understood the content of the application, including the Claims as amended and specifically referred to below.

Blair J. Johs

Craig M. Herzinger

12/28/2001
DATE

12/28/2001
DATE

DATE

STATUS AS A SMALL ENTITY

The undersigned, BLAINE D. JOHS and CRAIG M. HERZINGER hereby aver that they are the sole inventors of the invention titled: "SPECTROSCOPIC ROTATING COMPENSATOR ELLIPSOMETER SYSTEM WITH PSEUDO-ACHROMATIC RETARDER SYSTEM"; and that they are Independent Inventors in accordance with Section 1.9(c) of 37 C.F.R., and that they qualify as a Small Entity as defined in Section 1.9(f) of 37 C.F.R.

Blaine D. Johs

BLAINE D. JOHS

12/28/2001

DATE

Craig M. Herzinger

CRAIG M. HERZINGER

12/28/2001

DATE

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